



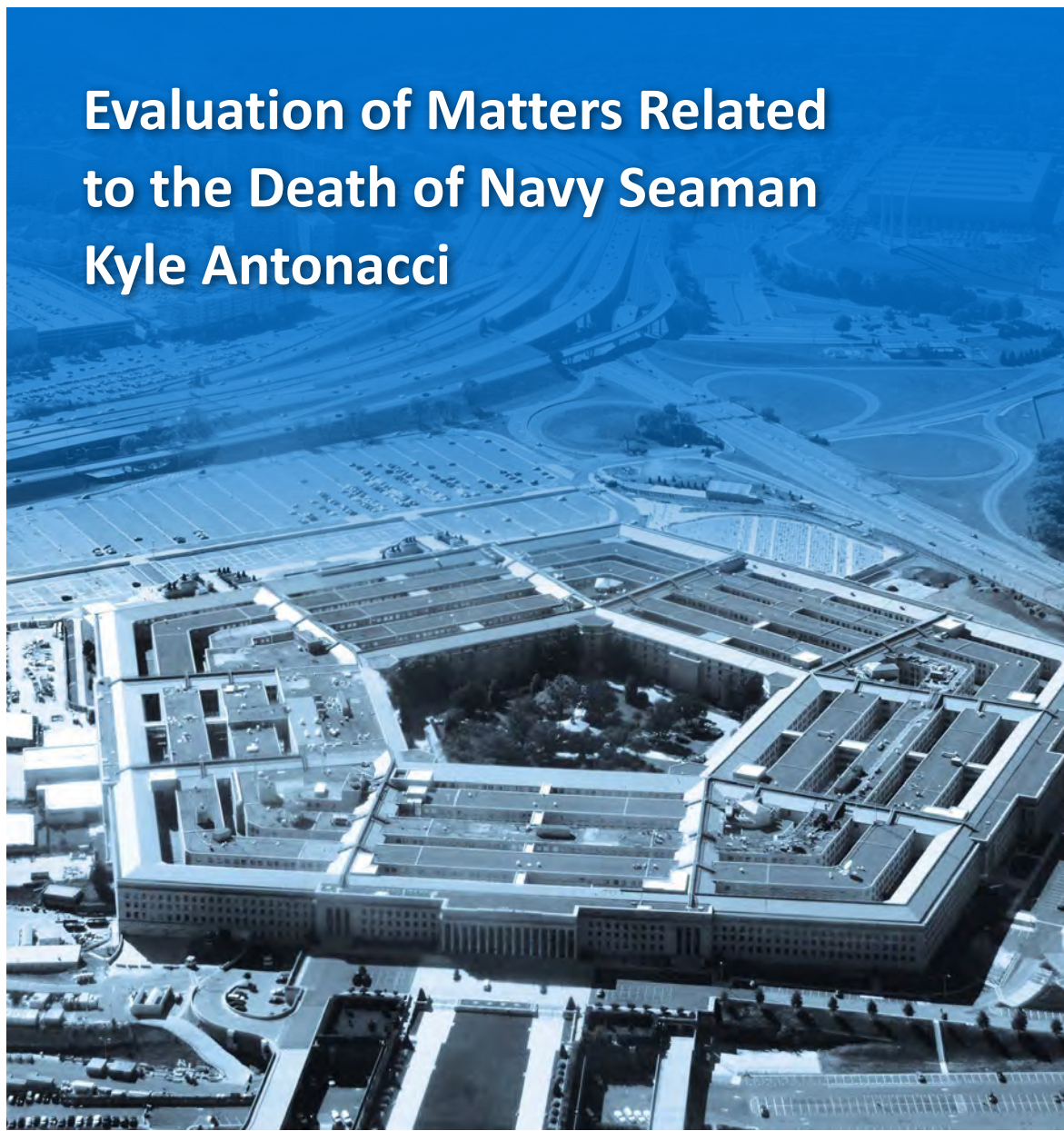
INSPECTOR GENERAL

U.S. Department of Defense

OCTOBER 28, 2014



Evaluation of Matters Related to the Death of Navy Seaman Kyle Antonacci



INTEGRITY ★ EFFICIENCY ★ ACCOUNTABILITY ★ EXCELLENCE

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Results in Brief

Evaluation of Matters Related to the Death of Navy Seaman Kyle Antonacci

October 28, 2014

Objective

This evaluation was initiated in response to a complaint to the Defense Hotline. The complaint questioned the integrity of the investigation into the death of Navy Seaman Kyle Antonacci and specifically alleged the Naval Criminal Investigative Service (NCIS) and Department of Navy officials conspired to rule the death a suicide. The objective of our evaluation was to determine whether the NCIS conducted three related criminal investigations (rape, perjury, and death) in accordance with NCIS standards and whether any evidence exists to suggest a conspiracy.

Findings

- The NCIS rape investigation was not conducted in full compliance with NCIS investigative standards and a threat reported by Seaman (SN) Antonacci was not thoroughly investigated when reported. These deficiencies may have impacted the outcome of the rape court-martial and the initiation of the perjury investigation.

Findings (cont'd)

- The perjury investigation was not conducted in full compliance with NCIS standards, specifically, the NCIS-3, Chapter 14, requirement for NCIS to always escort a confessed military suspect to a responsible command member and brief the results of the interrogation. Following the February 1, 2010, interrogation, the NCIS case agent stated even though he did not consider SN Antonacci a “confessed military suspect” requiring a release to command officials, he thought he released SN Antonacci to command officials. He did not document this release, and we could not find any documentation or witness testimony to support his contention. SN Antonacci was found, deceased, in his dormitory room approximately three hours after he departed the NCIS office.
- The death investigation was not conducted in full compliance with NCIS standards, but the deficiencies did not materially impact the investigation or the overall Armed Forces Medical Examiner’s (AFME) opinion that the manner of death was suicide. Additionally, our review of the death investigation revealed nothing to suggest a conspiracy between NCIS and Department of Navy officials to rule SN Antonacci’s death a suicide.

Recommendations

- We recommend the Director, NCIS provide enhanced training for supervisors and agents involved in the investigations to ensure proper understanding of NCIS criminal investigative standards and managing investigations and operations in accordance with NCIS-1, Chapter 45, “Managing Investigations and Operations,” NCIS-3, Chapter 30, “Death Investigations,” and NCIS-3, Chapter 34, “Sex Offenses.”



Results in Brief

Evaluation of Matters Related to the Death of Navy Seaman Kyle Antonacci

Recommendations (cont'd)

- We recommend the Director, NCIS reevaluate, clarify, and define the phrase “confessed military suspect” which is not clearly defined in NCIS-3, Chapter 14, “Interviews and Interrogations.” Specifically, NCIS should clarify and define the circumstances in which a person is considered a “confessed military suspect.” We noted the NCIS Supervisory Special Agent and the case agent offered differing interpretations whether SN Antonacci was a “confessed military suspect” , on the day of his death, requiring his escort and release to a responsible command member. The

SSA thought he was a “cooperating defendant” and the case agent didn’t consider him “confessed” (a confessed military suspect) since he didn’t confess, he only provided clarifying information supplementing his previous confessions.

Management Comments

Comments from NCIS addressed all specifics of the recommendations, and no further comments are required. Please see the Recommendation Table on the next page.

Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Director, Naval Criminal Investigative Service		1 and 2



**INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500**

October 28, 2014

MEMORANDUM FOR DIRECTOR, NAVAL CRIMINAL INVESTIGATIVE SERVICE

**SUBJECT: Evaluation of Matters Related to the Death of Navy Seaman Kyle Antonacci
(Report No. DODIG-2015-007)**

This final report is provided for information and use. We evaluated the Matters Related to the Death of Navy Seaman (SN) Kyle Antonacci. The evaluation was initiated in response to a complaint to the Defense Hotline. The complaint questioned the integrity of the investigation into the death of Navy Seaman Kyle Antonacci and specifically alleged that the Naval Criminal Investigative Service (NCIS) and Department of Navy officials conspired to rule the death a suicide. The objective of our evaluation was to determine whether the NCIS conducted three related criminal investigations (rape, perjury, and death) in accordance with NCIS standards, and whether any evidence exists to suggest a conspiracy.

We found NCIS did not conduct the investigations in accordance with NCIS standards. Additionally, our review of the death investigation revealed nothing to suggest a conspiracy between NCIS and Department of Navy officials to rule SN Antonacci's death a suicide.

We considered management comments on a draft of this report when preparing the final report. The Deputy Director, NCIS, responding for the Director, NCIS concurred with our recommendation to provide enhanced training for supervisors and agents involved in the investigations to ensure proper understanding of the NCIS criminal investigative standards and managing investigations and operations. The Deputy Director, NCIS, responding for the Director, NCIS also concurred with our recommendation to reevaluate, clarify, and define the phrase "confessed military suspect" which is not clearly defined in NCIS-3, Chapter 14, "Interviews and Interrogations." Specifically, NCIS should clarify and define the circumstances in which a person is considered a "confessed military suspect."

Management's comments were responsive to the draft and conformed to the requirements of DoD Directive 7650.3; therefore, additional comments are not required.

We appreciate the courtesies extended to the review staff. For additional information on this report, please contact [REDACTED]

A handwritten signature in black ink, appearing to read "R. Stone", is located above the name of the Deputy Inspector General.

Randolph R. Stone
Deputy Inspector General
Policy and Oversight

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Introduction

Objective

This evaluation was initiated in response to a complaint to the Defense Hotline. The complaint questioned the integrity of the investigation into the death of Navy Seaman (SN) Kyle Antonacci and specifically alleged the Naval Criminal Investigative Service (NCIS) and Department of Navy officials conspired to rule the death a suicide. The objective of our evaluation was to determine whether the NCIS conducted three related criminal investigations (rape, perjury, and death involving SN Antonacci) in accordance with NCIS standards and whether any evidence exists to suggest a conspiracy.

Background

NCIS initiated the first investigation involving SN Antonacci, a rape investigation in May 2009, after a female U.S. Marine Corps Lance Corporal (hereafter referred to as “Victim”) reported she was raped by a Navy Seaman (hereafter referred to as “Subject”) in the barracks room of SN Antonacci at Naval Station Great Lakes, Illinois. SN Antonacci was an acquaintance of the Victim and a friend of the Subject. In September 2009, SN Antonacci reported to NCIS he was threatened by an unidentified male United States Marine Corps (USMC) member shortly after the Victim accused him (SN Antonacci) of “switching sides” and “siding” with the Subject. SN Antonacci also reported he believed this USMC member was armed with a knife during this confrontation. NCIS did not further investigate the threat when reported. In November 2009, the Subject was convicted for aggravated sexual assault by engaging in a sexual act with a person who was substantially incapacitated, and incarcerated. He was subsequently discharged from the U.S. Navy.¹

In December 2009, a witness reported SN Antonacci lied during his court-martial testimony by not disclosing his prior sexual relationship with the Victim. The witness also alleged SN Antonacci told her he had consensual sexual intercourse with the Victim the same night she was raped. Based on that information, NCIS initiated a perjury investigation, the second investigation involving SN Antonacci. SN Antonacci admitted to a prior sexual relationship with the Victim and to having sexual intercourse with her on the same day of the alleged rape. SN Antonacci

¹ On August 19, 2010, the appellant (Subject), through appellate defense counsel, submitted a petition for a new trial to the Assistant Judge Advocate General of the Navy (Military Justice). On June 30, 2011, the United States Navy-Marine Corps Court of Criminal Appeals, Washington D.C., found the appellant’s argument that his petition for a new trial should be granted because of new information derived from the post-trial statements of SN KA. The Court set aside the findings and sentence and the [appellant’s] petition for a new trial was granted.

stated he was not truthful in his testimony because he thought, based on a conversation between him and the Victim, she would accuse him of rape if he did not testify on her behalf during the court-martial. SN Antonacci agreed to cooperate with NCIS and made two “consensually monitored telephone calls”² with the Victim. The Victim told SN Antonacci she did not remember having sexual intercourse with him the same night as the rape and did not admit she threatened to accuse him of rape.

Following the second consensually monitored telephone call with the Victim, SN Antonacci departed the NCIS field office. SN Antonacci returned to his barracks and informed a close friend that his life was over and he was going to jail. A short time later, his friend became concerned, went to SN Antonacci’s room to check on him, and found SN Antonacci hanging in his closet with a belt around his neck. SN Antonacci was transported to the Veterans Affairs Medical Center, North Chicago, Illinois, and pronounced dead. NCIS then initiated the third investigation involving SN Antonacci, investigating the facts and circumstances surrounding his death.

² The “consensually monitored telephone calls” were a consensual interception, defined in subsection 2511(2)(c), title 18, United States Code, January 3, 2012, as “an interception by a person acting under color of law of a wire, oral, or electronic communication where such party to the communication or one of the parties to the communication has given prior consent to such interception.”

Finding A

The NCIS Rape Investigation Was Not Conducted in Full Compliance With NCIS Investigative Standards and a Threat Reported by Seaman (SN) Antonacci Was Not Thoroughly Investigated When Reported.

Supervisory Case File Review

NCIS-1, Chapter 45, "Managing Investigations and Operations," requires supervisory case file reviews to be conducted at a minimum of every 30 days:

Our review of the rape investigation Case Activity Record revealed only three case reviews recorded between May 2009 and November 2009. Two supervisory case reviews were recorded, one on May 21, 2009, and one on June 9, 2009, while the investigation was ongoing. The third supervisory case file review, recorded on November 4, 2009, by a new Supervisory Special Agent (SSA), was conducted just prior to the court-martial. Per NCIS requirements a minimum of five supervisory case reviews should have been accomplished. Additionally, the quality of the supervisory case reviews could not be assessed because NCIS personnel could not locate the case review records.

Interview Thoroughness

NCIS-3, Chapter 34, "Sex Offenses," requires agents to interview individuals with knowledge of the suspect's or victim's activities prior to and after the incident:

During the course of the rape investigation, NCIS interviewed only two witnesses knowledgeable of the Victim's or Subject's activities prior to the reported rape. The Victim identified several potential witnesses who were drinking with her prior to the incident, but NCIS agents did not further identify or interview the potential witnesses. Several of the witnesses were later interviewed during the perjury investigation.

SN Antonacci was one of only two witnesses interviewed by NCIS during the rape investigation. The rape occurred in his barracks room and he was the first person known to have contact with the Victim following the rape, yet NCIS did not formally interview him until 20 days after the rape was reported. Additionally,

NCIS agents did not develop consequential information regarding SN Antonacci's on-going sexual relationship with the Victim. More thorough questioning may have developed information that SN Antonacci's last sexual encounter with the Victim occurred on May 9, 2009, the same evening as the rape, a fact SN Antonacci admitted during the subsequent perjury investigation. Another witness, a Marine Corporal who was contacted by the Victim shortly after the rape, was not interviewed until 70 days after the rape was reported.

During an interview with the DoD OIG, the SSA who assumed oversight responsibility after the completion of the rape investigation characterized the rape investigation as extremely poor and specifically cited a lack of witness interviews. As a result, NCIS conducted additional witness interviews, related to the rape investigation, during the subsequent related perjury investigation.

Additionally, NCIS did not determine the complete details of the incident during the comprehensive interview in accordance with NCIS-1, Chapter 45, which requires all investigations to be conducted in a diligent and complete manner:

NCIS agents conducted a follow-up interview of the Victim but failed to obtain complete details of the incident. The U.S. Army Criminal Investigation Laboratory analysis of evidence collected during the Victim's Sexual Assault Forensic Exam identified third-party deoxyribonucleic acid (DNA); DNA which could not be associated with the rape Subject or SN Antonacci. NCIS did not re-interview the Victim or seek an explanation about the third-party DNA during the course of the rape investigation.

Threat Reported by SN Antonacci

NCIS did not thoroughly investigate the threat reported by SN Antonacci in accordance with NCIS-1, Chapter 45, which requires all investigations be conducted in a diligent and complete manner:

In September 2009, SN Antonacci reported to NCIS that he was threatened by an unidentified male USMC member shortly after the Victim accused him (SN Antonacci) of "switching sides" and "siding with" the Subject. SN Antonacci told NCIS this USMC member threatened to "come after" him and coerce him into saying "what he wants for the court case." SN Antonacci also reported he believed this USMC member was armed with a knife during the confrontation. SN Antonacci

stated he believed the Marine carved an "X" in his barracks room door. NCIS also interviewed the Victim regarding the threat and documented the information in the interim Report of Investigation (ROI), dated September 28, 2009; however, NCIS agents did not further investigate the threat when it was reported.

During an interview with DoD OIG, the case agent who investigated the rape told us he thought NCIS should have initiated a separate investigation into the threat. NCIS did not interview the USMC member, who later admitted he confronted SN Antonacci and carved an "X" in his barracks room door, until approximately one week before SN Antonacci's death. Additionally, NCIS did not obtain photographic evidence of the "X" marking until October 26, 2011, nearly 2 years after the incident was first reported by SN Antonacci. NCIS did not present the investigative findings relative to the threat incident to Navy and Marine Corps officials until November 13, 2012, more than 3 years after the incident.

Finding B

The Perjury Investigation Was Not Conducted in Full Compliance With NCIS Standards.

Disposition of a Confessed Military Suspect

NCIS did not fully comply with policy regarding the disposition of a confessed military suspect as required by NCIS-3, Chapter 14, "Interviews and Interrogations," paragraph 14-9, which states,

[a]lways escort a confessed military suspect to a responsible command member; brief the results of the interrogation and, if appropriate, provide a copy of any written statement obtained. Proper disposition of suspects following interrogation may preclude the possibility of suicide, unauthorized absence, further crime, or retaliation against witnesses and informants.

NCIS first interrogated SN Antonacci on January 19, 2010. SN Antonacci was advised of his legal rights for perjury and other offenses, but he did not admit to any criminal conduct. During an interview with the DoD OIG, the case agent said he did not remember how or to whom SN Antonacci was released at the conclusion of the interview, but because he was not "confessed" (meaning a confessed military suspect), there was no requirement to release him directly to command officials.

On January 26, 2010, NCIS advised SN Antonacci of his rights for false official statements and perjury. SN Antonacci was interrogated, but did not admit to any criminal conduct and provided a sworn statement. The case agent said SN Antonacci did not admit to any criminal conduct so he was not "confessed" (meaning a confessed military suspect) thus, escort requirements did not apply.

On January 28, 2010, the NCIS advised SN Antonacci of his rights for perjury, rape, and false official statements. SN Antonacci was interrogated and administered a polygraph examination by NCIS. SN Antonacci admitted he had sexual contact with the Victim on the same night the rape was reported. At the conclusion of the interrogation, the NCIS case agent informed the Command Duty Officer (CDO) and the Officer-in-Charge (OIC) that SN Antonacci was emotionally distraught. The case agent recalled that he released SN Antonacci to command officials, but could not recall whether a command member came to NCIS or he escorted

him to the command. In the ROI, the case agent documented his coordination with the Personnel Support Detachment (PSD), SN Antonacci's command, and the OIC and cited a discussion with the OIC concerning SN Antonacci's alleged "suicidal ideations."

A review of the PSD CDO logbook reflected the case agent called the PSD and "wanted to inform chain of command he thought SN Antonacci may need a suicide watch." The logbook further noted that later the same evening, the case agent notified the CDO, "SN Antonacci did not want a ride from NCIS and did not want a chaplain. COC [chain of command] informed of situation." The OIC stated he did not recall talking with NCIS or being briefed that SN Antonacci took a polygraph exam. He did not recall any mention of SN Antonacci's suicidal ideations or being briefed by the CDO.

On January 29, 2010, the polygraph examination resumed. NCIS re-advised SN Antonacci of his rights for perjury, rape, and false official statements. SN Antonacci was interrogated and admitted having sexual intercourse with the Victim the same night she was raped. SN Antonacci provided additional clarifying details regarding his admission the previous day. The case agent said he escorted SN Antonacci to his command, briefed the OIC about the results of the interrogation, and released him to the OIC. The case agent said he told the OIC that SN Antonacci seemed to be in better spirits than on January 28, 2010. Later the same day, SN Antonacci was escorted to NCIS by a command member and SN Antonacci voluntarily placed a consensually monitored telephone call to the Victim. The case agent said he could not recall who escorted SN Antonacci from NCIS to PSD after the consensually monitored telephone call. The case agent did not document the release disposition. The OIC stated he did not recall SN Antonacci being released to him.

On February 1, 2010, SN Antonacci arrived at NCIS and informed the case agent he needed to clarify information. The case agent re-advised SN Antonacci of his rights for perjury, rape, and other offenses. SN Antonacci provided a sworn statement clarifying his previous admissions. He then made a second consensually monitored telephone call to the Victim, but she abruptly terminated the telephone call after SN Antonacci told her they had sexual intercourse the same day as the rape. According to the ROI, SN Antonacci departed the NCIS office after the telephone call, at approximately 1700 hours. The NCIS case agent thought he released SN Antonacci to command officials that day even though he did not consider SN Antonacci a "confessed military suspect." He did not remember any details

of the release and did not document the release disposition in the ROI. The SSA told us he believed that at the time of the consensually monitored telephone calls, SN Antonacci was “a cooperating defendant trying to produce an alibi of some kind, and it’s not a requirement to release him to command [as a confessed suspect].”

Approximately 3 hours after the investigative activity concluded on February 1, 2010, SN Antonacci was found dead in his dormitory room.

The case agent stated he recalled contacting SN Antonacci’s command officials and arranging for an escort for SN Antonacci following each interrogation with NCIS, but he documented details of only one release, January 29, 2010. The case agent reviewed the ROI (CLOSED), dated February 19, 2010, and could not explain why he did not document SN Antonacci’s release disposition following all interrogations.

We noted the NCIS Supervisory Special Agent and the case agent offered differing interpretations whether SN Antonacci was a “confessed military suspect,” on the day of his death, requiring his escort and release to a responsible command member. The SSA thought he was a “cooperating defendant” and the case agent didn’t consider him “confessed” (a confessed military suspect) since he didn’t confess on that day, he only provided clarifying information supplementing his previous confessions.

Finding C

The Death Investigation Was Not Conducted in Full Compliance With NCIS Standards.

The death investigation was not fully compliant with NCIS standards, but the deficiencies did not materially impact the NCIS investigation or the overall Armed Forces Medical Examiner's (AFME) opinion that the manner of death was suicide. Additionally, our review of the death investigation revealed nothing to suggest a conspiracy between NCIS and Department of the Navy officials to rule SN Antonacci's death a suicide.

Discrepancies in Autopsy Findings

NCIS did not clarify discrepancies of SN Antonacci's injuries and artifacts on his body as required by the NCIS Field Guide to Crime Scene Investigations, paragraph 20.3:

The Lake County, Illinois, forensic pathologist who conducted the autopsy was not interviewed to clarify the discrepancies between his findings and the autopsy findings of a noted private forensic pathologist. The noted forensic pathologist was hired by the Antonacci family to conduct a second autopsy. One such discrepancy pertained to the condition of SN Antonacci's nose. NCIS reported the Lake County Deputy Coroner stated "he [SN Antonacci] appeared to have a broken nose." NCIS further reported that during the autopsy, the Lake County forensic pathologist said his nose was "broken." However, the Lake County Coroner's autopsy report documented a "slight crepitus upon manipulation of the nose."³ The private forensic pathologist determined SN Antonacci's nose was intact, and no fractures were noted.

A second discrepancy involved SN Antonacci's hyoid bone. The Lake County Coroner forensic pathologist noted SN Antonacci's hyoid bone was intact during the autopsy. However, approximately seven months later, a private forensic pathologist conducted a second autopsy examination of SN Antonacci's body and noted the hyoid bone was not present. An interview with the Lake County forensic

³ "Crepitus" is a "grating sound or sensation produced by friction between bone and cartilage or the fractured parts of a bone." (Oxford Dictionaries; 2014 Oxford University Press; <http://www.oxforddictionaries/us/definition/english/crepitus>; July 10, 2014).

pathologist may have clarified the condition and presence of the hyoid bone during his autopsy, since the bone was not present or available for examination by the private forensic pathologist.⁴

Witness Interviews

NCIS did not conduct all logical witness interviews as required by NCIS-1, Chapter 45:

Two NCIS agents present during the final interview and consensually monitored telephone call with SN Antonacci informed the DoD OIG they were not interviewed during the course of the death investigation. The agents were among the last people identified who were known to interact with SN Antonacci prior to his death. NCIS also did not interview a potential witness with whom SN Antonacci had an on-line discussion wherein SN Antonacci refers to serving in the Navy as “suicidal bad.” This witness was identified in Exhibit 128 of the interim ROI, dated February 22, 2012, however, there was no documented effort to further identify and interview this witness.

Additionally, NCIS did not determine complete details during comprehensive interviews in accordance with NCIS-1, Chapter 45, which requires all investigations to be conducted in a diligent and complete manner:

NCIS interviewed a Navy Seaman, who was identified as [REDACTED] on two separate occasions during the death investigation. However, NCIS did not develop consequential information related to determining the manner of death. During our interview with the Navy Seaman he disclosed he and SN Antonacci had serious discussions about suicide. He also recalled a specific discussion with SN Antonacci about suicide that occurred approximately 10 months prior to SN Antonacci’s death. During this discussion, SN Antonacci said that if he was ever to commit suicide, he would hang himself. The Lake County Coroner’s Office determined the cause of SN Antonacci’s death was hanging.

Conclusion

The rape investigation was not conducted in full compliance with NCIS standards. Although required every 30 days, supervisory case reviews were documented on only three occasions during the course of the rape investigation between May and November 2009. NCIS agents conducted a follow-up interview of the

⁴ “Hyoid” is “A U-shaped bone in the neck that supports the tongue” (Oxford Dictionaries; 2014 Oxford University Press; <http://www.oxforddictionaries/us/definition/english/hyoid>; July 10, 2014). A “fracture of the hyoid or thyroid cartilage are [sic] occasionally seen [in hanging and is] . . . common but not always present [in manual strangulation].” Eliopoulos, I. (1993). *Death Investigator’s Handbook - A Field Guide to Crime Scene Processing, Forensic Evaluations, and Investigation Techniques*, Boulder: Paladin Press.

Victim but failed to obtain complete details of the incident and did not seek an explanation about the third-party DNA collected from the Victim during the sexual assault forensic examination. Further, NCIS agents did not thoroughly investigate a threat to SN Antonacci when reported. Additionally, NCIS agents did not develop consequential information regarding SN Antonacci's on-going sexual relationship with the Victim. More thorough questioning may have developed information that SN Antonacci's last sexual encounter with the Victim occurred on May 9, 2009, the same evening as the rape. SN Antonacci ultimately disclosed this information during the subsequent perjury investigation. These deficiencies may have impacted the outcome of the rape court-martial and the initiation of the perjury investigation.

The perjury investigation was not conducted in full compliance with NCIS standards. The perjury investigation was initiated based on information that SN Antonacci failed to disclose his sexual contact with the Victim on the same evening as the rape, both to NCIS and in his testimony during the rape court martial. A perjury investigation would not have been necessary if NCIS agents developed those details during the rape investigation.

NCIS-3, Chapter 14 requires NCIS agents to "Always escort a confessed military suspect to a responsible command member; brief the results of the interrogation and, if appropriate, provide a copy of any written statement obtained. Proper disposition of suspects following interrogation may preclude the possibility of suicide, unauthorized absence, further crime, or retaliation against witnesses and informants." NCIS interrogated SN Antonacci on five separate occasions during which he admitted he was not truthful with NCIS during the rape investigation regarding his sexual contact with the Victim; however, we found no documentation or witness testimony reflecting NCIS released SN Antonacci to command officials on the day of his death.

The death investigation was not conducted in full compliance with NCIS standards. For example, discrepancies of SN Antonacci's injury (slight crepitus to the nose) and artifact (missing hyoid bone) on his body were not resolved and some witness interviews were not conducted. However, these variances did not materially impact the investigation's overall conclusion of suicide or the AFME's opinion that the manner of death was suicide. Our evaluation found no evidence that disputes the NCIS death investigation or the AFME's opinion.

Our review of the NCIS rape, perjury, and death investigations revealed nothing to suggest a conspiracy between NCIS and Department of the Navy officials to rule SN Antonacci's death a suicide. The AFME reviewed testimony, statements, and evidence collected during the course of the death investigation and stated:

In our opinion, there is far more than sufficient evidence in the circumstances surrounding this death, and in the autopsy findings to classify the manner of death as suicide. From the evidence available for review, there is no evidence of natural disease, or an accidental or homicidal death.

Recommendations, Management Comments and Our Response

The Naval Criminal Investigative Service agreed with our report and recommendations. We received management comments on a draft of this report. The comments addressed our assessment of determining whether the NCIS conducted three related criminal investigations (rape, perjury, and death involving SN Antonacci) in accordance with NCIS standards and whether any evidence exists to suggest a conspiracy. The management comments are summarized and addressed below, and included verbatim as Management Comments.

Recommendation 1

We recommend the Director, NCIS provide enhanced training for supervisors and agents involved in the investigations to ensure proper understanding of the NCIS criminal investigative standards and managing investigations and operations in accordance with NCIS-1, Chapter 45, "Managing Investigations and Operations," NCIS-3, Chapter 30, "Death Investigations," and NCIS-3, Chapter 34, "Sex Offenses."

NCIS Comments

The Deputy Director, NCIS, responding for the Director, NCIS concurs with this recommendation. To help ensure all special agents and supervisors understand NCIS criminal investigative standards and expectations for managing investigations and operations, NCIS implemented a standardized case review sheet (SCRS) for all supervisory case reviews in November 2012.

Our Response

Comments from the Deputy Director, NCIS, are responsive to recommendation 1.

Recommendation 2

We recommend the Director, NCIS, reevaluate, clarify, and define the phrase “confessed military suspect” which is not clearly defined in NCIS-3, Chapter 14, “Interviews and Interrogations.” Specifically, NCIS should clarify and define the circumstances in which a person is considered a “confessed military suspect.” We noted the NCIS supervisory special agent (SSA) and the case agent offered differing interpretations whether SN Antonacci was a “confessed military suspect” on the day of his death, requiring his escort and release to a responsible command member. The SSA thought he was a “cooperating defendant” and the case agent didn’t consider him “confessed” (a confessed military suspect) since he didn’t confess, he only provided clarifying information supplementing his previous confessions.

NCIS Comments

The Deputy Director, NCIS, responding for the Director, NCIS concurs with the recommendation to reevaluate, clarify, and define the phrase “confessed military suspect”. Further clarification in NCIS policy is forthcoming regarding what constitutes a “confessed military suspect,” and therefore the circumstances under which suspects should be released to responsible command members.

Our Response

Comments from the Deputy Director, NCIS are responsive to recommendation 2.

Appendix

Scope and Methodology

We conducted this evaluation from February 2013 to January 2014 in accordance with the Council of Inspectors General on Integrity and Efficiency, “Quality Standards for Inspections and Evaluations,” January 2012. Our work included a review of three NCIS investigative case files and supporting documentation for the rape, perjury, and death investigation associated with SN Antonacci. We reviewed official case file records, including ROIs, ROI(Actions), Investigative Actions with Exhibits/Enclosures as well as Case Activity Records, Case Review Records, evidence custody documents, forensic examination requests and results, case notes, interrogation logs, and other documents provided by NCIS.

Additionally, we reviewed NCIS written policies and standards, official U.S. Navy e-mail data for NCIS and Navy personnel, CDO logbooks, and other supporting documentation from SN Antonacci’s former command and the Navy Regional Legal Service Office Midwest.

We analyzed information and supporting documentation to identify interview requirements and additional documentation. We conducted 13 field interviews, including the NCIS case agents for the rape and perjury investigations, the SSA during the perjury and death investigations, the NCIS polygraph examiner, the former Navy prosecutor for the rape case, and the former OIC and senior enlisted personnel from SN Antonacci’s former command, as well as close friends and associates of SN Antonacci.

During the course of this evaluation, we collaborated with the U.S. Department of Justice; U.S. Attorney’s Office, Northern District of Illinois; Office of the State’s Attorney, Lake County, IL; State of Illinois Attorney General’s Office, and the U.S. Navy Regional Legal Service Office Midwest, Naval Station Great Lakes, IL.

Use of Computer-Processed Data

We did not use computer-processed data to perform this evaluation.

Prior Coverage

No prior coverage has been conducted on the subject.

Management Comments

Naval Criminal Investigative Service



**DEPARTMENT OF THE NAVY
HEADQUARTERS
NAVAL CRIMINAL INVESTIGATIVE SERVICE
27130 TELEGRAPH ROAD
QUANTICO VA 22134-2253**

September 19, 2014

**MEMORANDUM FOR DEPUTY INSPECTOR GENERAL, POLICY AND
OVERSIGHT, DEPARTMENT OF DEFENSE OFFICE
OF INSPECTOR GENERAL**

**SUBJECT: NCIS Response to the Evaluation of Matters Related to the Death of Navy
Seaman Kyle Antonacci (Project No. 2012C002)**

The Naval Criminal Investigative Service (NCIS) has reviewed the DoD Inspector General Report dated August 20, 2014, and appreciates the opportunity to provide comments.

The report has two recommendations, as follows:

- We recommend that NCIS provide enhanced training for supervisors and agents involved in the investigations to ensure proper understanding of the NCIS criminal investigative standards and managing investigations and operations in accordance with NCIS-1, Chapter 45, "Managing Investigations and Operations," NCIS-3, Chapter 30, "Death Investigations," and NCIS-3, Chapter 34, "Sex Offenses."
- We recommend NCIS reevaluate, clarify, and define the phrase "confessed military suspect" which is not clearly defined in NCIS-3, Chapter 14, "Interviews and Interrogations." Specifically, NCIS should clarify and define the circumstances in which a person is considered a "confessed military suspect." We noted the NCIS supervisory special agent (SSA) and the case agent offered differing interpretations whether SN Antonacci was a "confessed military suspect" on the day of his death, requiring his escort and release to a responsible command member. The SSA thought he was a "cooperating defendant" and the case agent didn't consider him "confessed" (a confessed military suspect) since he didn't confess, he only provided clarifying information supplementing his previous confessions.

NCIS concurs with the first recommendation. An emphasis on operational excellence in managing investigations has been an integral part in all NCIS first-line, mid-level and senior management training programs. NCIS maintains a structured training program for all levels of the agent corps, from newly hired special agents to senior executives. Special agents are taught NCIS policies, procedures, and standards beginning with their employment and instruction at special agent basic training at the Federal Law Enforcement Training Center (FLETC). Upon graduation from FLETC, agents return to their duty station and immediately enter a field training program where they are assigned an experienced field training agent. The field training agent continuously reinforces NCIS policies and procedures. During monthly case reviews,

Naval Criminal Investigative Service (cont'd)

SSAs provide guidance and oversight to ensure special agent investigations are in compliance.

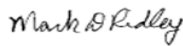
To help ensure all special agents and supervisors understand NCIS criminal investigative standards and expectations for managing investigations and operations, NCIS implemented a standardized case review sheet (SCRS) for all supervisory case reviews in November 2012. The SCRS is a tool to assist supervisors in evaluating the investigative quality through the life of the investigation and provides a method by which deficiencies are identified early and remediation efforts are tracked for completion by resident agency, field office and regional management. This process, which was implemented after the investigation in question, has directly contributed to a marked improvement in investigative quality.

In addition, field office special agents-in-charge, geographic executive assistant directors, and the NCIS Inspector General provide more opportunities for quality control through day-to-day oversight and through office inspections. This helps to ensure investigations are conducted in accordance with NCIS policies, procedures, and standards.

The personnel and supervisors responsible for the investigative deficiencies cited in the report have been reassigned, no longer serve in supervisory positions, or their NCIS employment has been terminated.

NCIS concurs with the second recommendation. Further clarification in NCIS policy is forthcoming regarding what constitutes a “confessed military suspect,” and therefore the circumstances under which suspects should be released to responsible command members.

If you have any comments or questions, please do not hesitate to contact [REDACTED]
[REDACTED]



Mark D. Ridley
Deputy Director

Acronyms and Abbreviations

AFME	Armed Forces Medical Examiner
CDO	Command Duty Officer
DNA	Deoxyribonucleic Acid
JAG	Judge Advocate General
NCIS	Naval Criminal Investigative Service
OIC	Officer-in-Charge
OIG	Office of Inspector General
PSD	Personnel Support Detachment
ROI	Report of Investigation
SN	Seaman
SSA	Supervisory Special Agent
USMC	United States Marine Corps



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congressional@dodig.mil; 703.604.8324

Media Contact

public.affairs@dodig.mil; 703.604.8324

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